



# PLANNING & ZONING COMMISSION MINUTES

## REGULAR MEETING

Wednesday, April 5, 2023 @ 6:00 pm

The Kure Beach Planning and Zoning Commission (PZC) held its regular meeting on Wednesday April 5, 2023. A quorum of members was present and Attorney Jim Eldridge attended.

### **P&Z MEMBERS PRESENT**

Chairman Byron Ashbridge  
Vice-Chair Joe Barlok  
Member Jim Dugan  
Member Craig Galbraith  
Member Tony Garibay  
Alternate Member Connie Mearkle

### **P&Z MEMBERS ABSENT**

### **STAFF PRESENT**

Mandy Sanders, Town Clerk  
John Batson, Building Inspector

### **COUNCIL LIAISON PRESENT**

Commissioner Dennis Panicali

### **CALL TO ORDER**

Chair Ashbridge called the meeting to order at 6:00 p.m.

### **ADOPTION OF AGENDA**

MOTION- Member Barlok made a motion to adopt the agenda as presented

SECOND- Member Dugan

VOTE- Unanimous

### **APPROVAL OF MEETING MINUTES:**

- March 1, 2023 Regular Meeting

MOTION- Member Barlok made a motion to approve the minutes as presented

SECOND- Member Dugan

VOTE- Unanimous

### **PUBLIC COMMENTS**

A resident asked is there a formal way to handle a complaint regarding the house across the street from his home?

Chairman Ashbridge commented this would be something Building Inspector Batson would handle.



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Building Inspector Batson commented he would be happy to speak with him tomorrow about the situation.

## OLD BUSINESS

### 1. Review and Report on Proposed Text Amendment to Chapter 15 (Member Barlok)

Member Barlok reviewed the proposed text amendments to Chapter 15. The proposed text amendments are hereby incorporated into the minutes.

#### Presentation Highlights:

- Under the definition of Billboard delete section “See definition of sign below”
- PZC decided on using “One” family under the definitions of dwelling
- Freestanding Sign- Delete the following language “ground sign does not mean billboard”
- Leave the reference of “bed and breakfast” under the definition of Tourist Lodgings as defined in GS 130A-247
- All permitted uses sections will be revised in the next few months
- Include definition “Wind systems are not permitted in any form in any district” in 15.36.250

Attorney Eldridge commented since there are a lot of changes, he would like to make the following revisions and have the Commission review before it is approved and recommended to Town Council.

Member Garibay asked there are a lot of guidelines on Solar panels but no regulations on batteries. Companies now make batteries that hang on exterior walls, so should there be mention of battery banks on the exterior of homes in the ordinance?

Attorney Eldridge commented the PZC may want to take this into consideration and add it to the agenda for further discussion as a separate agenda item.

Building Inspector Batson will review this agenda item and bring a recommendation to the next agenda.

CONSENSUS- PZC agreed to add discussion of Batteries Used for Electricity Storage on the May PZC agenda

### 2. Review and Report on Proposed Text Amendment RA-1, RA-1A, RA-2, RA-2A, RA-2T

Attorney Eldridge reviewed the Proposed Text Amendments to RA-1, RA-1A, RA-2, RA-2A, RA-2T as presented in the agenda packet.



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MOTION- Member Galbraith made a motion to approve the proposed text amendment to RA-1, RA-1A, RA-2, RA-2A, RA-2T

SECOND- Member Garibay

VOTE- Unanimous

MOTION- Member Dugan made a motion to amend RA-1A to change the wording from single to "one" in the definition of 15.12.020 (A)

SECOND- Member Galbraith

VOTE- Unanimous

MOTION- Member Galbraith made a motion to approve the Consistency Statement as presented

SECOND- Member Dugan

VOTE- Unanimous

## NEW BUSINESS

1. Discussion of Permitted Uses for the following districts: RA-3, RA-3A, RA-4, RB-1

CONSENSUS- Permitted Uses for the following districts: RA-3, RA-3A, RA-4, RB-1 was tabled to the May PZC agenda.

## CLOSED SESSION

None.

## ADJOURNMENT

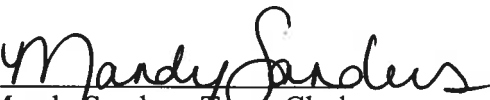
The meeting was adjourned early due to the Town fire alarm.

MOTION- Member Galbraith made a motion to adjourn the meeting

SECOND- Member Barlok

VOTE- Unanimous

ATTEST:

  
Mandy Sanders, Town Clerk

  
Byron Ashbridge, Chairman

NOTE: These are action minutes reflecting items considered and actions taken by Planning and Zoning Commission. These minutes are not a transcript of the meeting. A recording of the meeting is available on the town's website under government>planning and zoning.

## PROPOSED SYNTACTUCAL TEST AMENDMENTS TO KBC CHAPTER 15

(For PZC Review and Recommendation)

### **15.02.010 Definitions**

The terms for allowable uses are defined in this section and the extracts of the 1987 Standard Industrial Classification Manual (SIC) set forth in KBC 15.44.010 Appendix A, will be used to determine a uses classification.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Accessory building and use* shall mean a subordinate building, the use of which is incidental to that of a principal building on the same parcel. (See KBC 15.36.040 and KBC 15.36.070)

*Agriculture* (8811) shall mean noncommercial farms, including horticulture, floriculture, dairying, livestock and poultry. No farms shall be operated for commercial purposes, nor shall there be farms for piggeries, or for the disposal of garbage, sewage, rubbish, offal or rendering plants or for the slaughtering of animals, except such animals as have been raised on the premises or have been on the premises for at least a period of one (1) year immediately prior thereto and for the use and consumption of persons residing on the premises.

*Alley* shall mean a public or private thoroughfare, which affords only a secondary means of access to abutting property.

*Alterations* shall mean any change, addition or modification in construction or type of occupancy, any change in the structural members of a building, such as walls, or partitions, columns, beams or girders, the consummated act of which may be referred to herein as altered or reconstructed.

*Apartment* shall mean any building or portion thereof used as a multifamily dwelling for the purpose of providing a complete rental dwelling unit may share means of egress.

*Awning* shall mean a roof like projection which extends from a building to shelter passerby from the weather. The sides of an awning, canopy, or marquee shall be open except for necessary supports, planting boxes and signs.

*Balcony* ~~shall mean~~ **shall mean** an open platform projecting from the wall of a building usually supported by brackets and enclosed by a railing.

*Barrier* shall mean curbs, walls, fences, or similar protective and located to protect public right-of-way and devices designed adjoining properties.

*Basement* shall mean a story partly underground but having at least sixty (60) percent of its height above the average level of the adjoining ground.

*Beach* shall mean a stretch of land, either public or private, along the Atlantic Ocean starting within the town's jurisdiction, up to first row of vegetation or structure.

*Bedroom* **shall mean** a room 10x10 or larger, having a closet, and intended primarily for sleeping.

*Billboard* shall mean any sign or advertisement used as an outdoor display for the purpose of making anything known, the origin or point of sale of which is remote from such display. (See definition of sign below).

*Block* shall mean the length of street between two (2) street intersections.

*Boardinghouse* shall mean rooming house as defined herein.

~~*Billboard* shall mean any sign or advertisement used as an outdoor display for the purpose of making anything known, the origin or point of sale of which is remote from such display. (See definition of sign below).~~

*Board of Adjustment* see KBC 12.04.020.

*Buffer* shall mean an area or means of separating two (2) adjacent areas. The design, composition, height, and location of such facilities shall be approved by the town zoning enforcement officer.

*Buffer strip* shall mean an area or means of separating two (2) adjacent areas. The design, composition, height and location shall be approved by the zoning enforcement officer. The buffer strip shall be a solid fence, wall, or a planted strip composed of deciduous and or evergreen trees spaced not more than ten (10) feet apart, and not less than one (1) row of dense shrubs spaced not more than five (5) feet apart, which shall be established and maintained in perpetuity by the owner of property whenever required under the terms and provisions of this chapter.

*Building* shall mean any structure used or intended for supporting or sheltering any use or occupancy.

*Building area* shall mean a structure enclosed and isolated by exterior walls constructed or used for residence, business, industry, or other public or private purposes, or accessory thereto, and including tents, lunch wagons, dining cars and trailers; provided that, however, the term "building" shall not mean nor be construed so as to include a container. The term "building" shall be construed as if followed by the words or part thereof.

*Building, front line of* shall mean that face of the principal building nearest the front line of the lot, facing the road.

*Building, height of* shall mean the vertical distance from the mean elevation of the finished grade of the building site, (the land area immediately below said building) to the highest point of the roof.

*Building inspector* shall mean the officer or other designated authority charged with the administration and enforcement of the building code or his duly authorized representative or agent.

*Building line* shall mean a line, which established the minimum allowable horizontal distance between the lot line and the nearest portion of any structure on the lot. (See yard requirements)

*Building permit* shall mean written permission granted by the building inspector for the erection, relocation, reconstruction or structurally altering any building.

*Building, principal* shall mean a building in which is conducted the main or principal use of the lot on which said building is situated.

*Canopy sign* shall mean a projecting sign attached to or hung from a marquee and such marquee shall be known to mean a canopy or covered structure projecting from and supported by a building, when such canopy or covered structure extends beyond the building line or property line.

*Cellar* shall mean a story having more than forty (40) percent of its height below the average level of the adjoining ground.

*Certificate of compliance* shall mean a certificate that a premise conforms to provisions of the zoning regulations and building code and may be used or occupied.

*Club* shall mean an organization of persons for special purposes or for the promulgation of sports, arts, science, literature, politics, social or the like.

~~*Collector street* shall mean a collector street as identified in the thoroughfare plan for the town.~~

*Common areas and facilities* shall mean those areas of a housing project and of a property upon which it is located within the Town's planning and development regulation jurisdiction which are for the use and enjoyment of the owner of family units located in the project. The areas may include the land, roofs, main walls, elevators, staircases, lobbies, halls, parking space, and community facilities. Community facilities are noncommercial recreational facilities such as a club house, swimming pool, tennis court or beach access for the exclusive use and enjoyment of the owners of family units located in the project.

*Common party walls* shall mean a wall, used jointly by two (2) parties under easement agreement, erected upon a line separating two (2) parcels of land, each of which is a separate real estate entity.

*Common open space* shall mean open areas, the use of which is shared by all tenants and/or property owners, as distinguished from space designated for their private use.

*Condominium* shall mean a system of individual fee ownership of complete dwelling units in a multiunit structure, whose ownership is not time shared, combined with joint ownership or common areas of the structure and land.

*Container* shall mean any standardized shipping container used for intermodal freight transport. Also known as cargo or freight container, ISO or intermodal container, and shipping, sea or ocean container.

~~*Deck*~~ ~~*An*~~ shall mean an open, unroofed porch or platform extending from or in near proximity from a house or other building.

*Development* shall mean any of the following: the construction, erection, alteration, enlargement, renovation, substantial repair, movement to another site, or demolition of any structure; the excavation, grading, filling, clearing, or alteration of land; the subdivision of land as defined in G.S. 160A-376; or the initiation of substantial change in the use of land or the intensity of the use of land.

*Development Permit* shall mean an administrative or quasi-judicial approval that is written and that is required prior to commencing development or undertaking a specific activity, project, or development proposal, including, but not being limited to any of the following: zoning permits; site plan approvals; special use permits; variances; certificates of appropriateness; plat approvals; development agreements; building permits; subdivision of land; state agency permits for development; driveway permits; erosion and sedimentation control permits; and sign permits.

*Disability shall mean* a physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment.

*Disability Ramp shall mean* an inclined plane permanently installed in addition to or instead of stairs. Ramps permit an individual with a disability to more easily access a building.

*District* shall mean a portion of the incorporated and/or extra-territorial area of the town within which certain regulations and requirements or variances or combinations thereof apply under the provisions of this chapter. (See KBC 15.08.010)

*Dome*—~~A~~ shall mean a large hemispherical roof or ceiling.

*Driveway shall mean* a paved area between edge of pavement and property line providing an unobstructed passage from the roadway to an off-street area used for parking, or otherwise accommodating motor vehicles.

*Dwelling, modular* shall mean a movable or portable dwelling constructed to be transported as a unit and designed to be placed upon a permanent foundation.

*Dwelling, multifamily*~~shall multifamily~~ shall mean a building that contains one or two dwelling units used, intended, or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

~~*Dwelling shall mean a building or portion thereof used or designed as a residence for three (3) or more families having complete independent dwelling units.*~~

*Dwelling, pre-fab* shall mean a dwelling constructed from standardized sections fabricated beforehand for shipment and quick assembly.

*Dwelling, single-family* shall mean a detached building designed for occupancy exclusively by one (1) family. A mobile home or trailer is not included in this definition, regardless of the degree of permanence of its attachment to the land.

*Dwelling, two-family* shall mean a building designed for or occupied exclusively by two (2) families having complete independent dwelling units.

*Dwelling, unit* ~~unit~~ shall mean a single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

*Established grade* shall mean the elevation of the street grade as fixed by the town.

*Expenditure* shall mean a sum of money paid out in return for some benefit or to fulfill some obligation.

*Extraterritorial area* shall mean that land beyond the corporate limits extending for a distance of up to one (1) mile in all directions as delineated on the official zoning map for the town.

*Family* shall mean one (1) or two (2) persons or parents related by blood, marriage, or operation of law together with their lineal descendants, ascendants and/or adopted children and including the domestic employees thereof who occupy the whole or part of a dwelling unit and further comprise a single housekeeping unit, as distinguished from a group occupying a boardinghouse, rooming-house, hotel or motel.

*Fire escape* shall mean a fireproof stairway down an outside wall to help people escape from a burning building.

*Flammable and combustible substances* shall mean substances which will ignite easily and burn freely.

*Flood* shall mean a temporary rise in stream flow that results in water overtopping its banks and inundating areas adjacent to the watercourse.

*Floodplain* shall mean the relatively flat area or low land adjacent to the channel of a river, stream or watercourse, lake or other body of standing water which has been or may be covered by floodwater.

*Floodproofing* shall mean a combination of structural provisions, changes or adjustments to properties and/or structures subject to flooding primarily for the reduction or elimination of flood damage to properties, water and sanitary facilities, structures and contents of buildings.

*Flood protection elevation* shall mean the elevation to which structures and uses regulated by this chapter are required to be elevated or flood proofed. This elevation is shown on the official Flood Hazard Boundary Map (FHBM).

*Freestanding sign* shall mean an outdoor sign when such sign is supported by uprights or braces in or upon the ground. Ground sign does not mean billboard.

*Full Kitchen* shall mean a room or space with typical appliances including a sink, oven, and/or stove.

*Garage, private* shall mean an area of the building whose primary purpose is the storage of private vehicles.

*Gazebo* shall mean a freestanding, roofed structure open on the sides.

*Gross floor area* shall mean the total floor space within the exterior walls of the main structure on all floors of floor space devoted to a particular use including the space occupied by such supporting facilities as storage areas, work areas, toilets, hallways, stairways, mechanical equipment and the like.

*Habilitation/rehabilitation facility* means shall mean a place providing care, treatment, habilitation, or rehabilitation of, or other services to the mentally ill, the developmentally disabled, or substance abusers.

*Halfway house* means shall mean a place for the housing, rehabilitation, and training of persons on probation, parole, or early release from correctional institutions, or other persons found guilty of criminal offenses.



*Historic Preservation Commission* see KBC 12.04.030.

*Home occupation* shall mean an occupation for gain or support conducted only by members of the immediate or extended family residing on the premises, provided use conducted entirely within a dwelling which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof and provided that no article is sold or offered for sale except such as may be produced by members of the family residing on the premises. And that no display of products nor any advertising of any nature shall be visible from the street.

*Homeless shelter* ~~means shall mean~~ temporary housing available to individuals and families experiencing homelessness.

*Hotel (7011)* shall mean a building intended or designed to be used as tourist lodgings which are rented to short term transients where a general kitchen and dining room are provided within the building or in an accessory building. Typical hotel services must be offered including daily linen and maid service, and receipt and disbursement of keys and mail by the attendant at the desk in the lobby or office, for the occupants of the hotel. No hotel facility shall be converted to or used as a multifamily residential dwelling. (See tourist lodgings)

*Impairment shall mean* a physical impairment is a physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the body systems. A mental impairment is any mental or psychological disorder.

*Impervious Surface shall mean* an area that releases as runoff all or a majority of the precipitation that falls on it. Includes rooftops, sidewalks, driveways, parking lots, and streets unless specifically designed, constructed, and maintained to be pervious.

*Individual with a Disability shall mean* a person who has a physical or mental impairment that substantially limits one or more of the major life activities of such individual or a record of such an impairment or is regarded as having such an impairment.

*Industry ~~group~~ Group No. shall mean* (a broad description of an industry), ~~and~~.

*Industry No. shall mean* (a more specific breakdown of an industry) ~~are~~ used for brevity at the end of a definition extracted from SIC.

~~*Industry group No. 653, Industry number 6531: Real estate agents and managers: Establishments primarily engaged in renting, buying, selling, managing, and appraising real estate for others.*~~

~~*Industrial No. 7999 shall be acceptable for the following: Amusement and recreation; bath houses; independently operated bathing beaches; public bingo parlors; bridge clubs; bridge instruction; card rooms; golf courses, miniature; operation of golf driving ranges; golf professionals not operating retail stores; golf pitch and put; gymnastics instruction; handball courts; (except membership clubs); judo instruction; karate instruction, lifeguard service.*~~

*Kitchenette shall mean* a room or space with a refrigerator, sink, and microwave.

*Land development regulation* shall mean any State statute, rule, regulation, or local ordinance affecting the development or use of real property, including any of the following: unified development ordinance; zoning regulation and zoning map; subdivision regulation; erosion and sedimentation control regulation; floodplain or flood damage prevention regulation; stormwater

control regulation; wireless telecommunication facility regulation; historic preservation regulation; or housing code.

*Landowner* shall mean any owner of a legal or equitable interest in real property including heirs, devisees, successors, assigns, and the personal representatives of such owners. A landowner may allow a person holding a valid option to purchase the real property to act as his agent or representative for the purpose of submitting a proposed site specific development plan for approval.

*Loft*-~~A shall mean~~ a room or storage area within a sloping roof or attic.

*Lot* shall mean a parcel of land whose boundaries have been established by some legal instrument such as a deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title. If a public road crosses a parcel of land otherwise characterized as a lot by this definition, the land on each side of the public road shall constitute a separate lot.

*Lot, corner* shall mean a lot at the junction of and abutting upon two (2) or more streets. (See KBC 15.36.060).

*Lot, depth of* shall mean the mean horizontal distance between the front and rear lot lines.

*Lot, double frontage* shall mean any interior lot having ~~front-ages~~ frontages on two (2) more or less parallel streets as distinguished from a corner lot.

*Lot, front of* shall mean that side of the lot which fronts on a street. In the case of a corner lot the narrower side fronting on the street shall be considered the front of the lot. In case the corner lot has equal frontage on two (2) or more streets, the lot shall be considered to front on that street on which the greatest number of lots front, or if unplatted, on that which the greatest number of lots front, or if unplatted, on that street on which the greatest number of buildings have been erected.

*Lot, interior* shall mean a lot other than a corner lot.

*Lot lines* shall mean the lines bounding a lot as herein defined.

*Lot, reversed corner* shall mean a corner lot which does not front on the same street with the interior lots on the same side.

*Lot, through* shall mean lot, double frontage as defined herein.

*Lot of record* shall mean a parcel of land, the dimensions of which are shown on a recorded plat on file with the New Hanover County Register of Deeds.

*Lot width* shall mean the mean horizontal distance between the side lot lines measured at right angles to the depth.

*Major thoroughfares* shall mean the thoroughfare plan for the Town of Kure Beach.

*Manufacturing* shall mean the making of goods and articles by hand or by machinery with a division of labor.

*Manufactured/Mobile home*: ~~A manufactured/mobile home~~ shall mean a moveable or portable dwelling, a doublewide, consisting of a multi-sectional residential structure of two (2) or more sections with seven hundred fifty-six (756) sq. ft. minimum area constructed or manufactured in an ~~off-site~~ offsite manufacturing facility for installing or assembling on the building site bearing

a seal certifying that it was built in compliance with the Federal Manufactured Housing and Construction and Safety Standards, and built after June 15, 1976, meeting all electrical, plumbing and safety standards as required by code. The tongue, axles, transporting lights and removable towing apparatus shall be removed after placement on the lot with the required anchoring and a continuous, permanent masonry wall, with no openings, except for required ventilation and access installed under the home after placement on the lot and before occupancy.

*Manufactured/Mobile home park* shall mean a parcel of land, at least three (3) acres or more, which has been planned and improved for the placement of two (2) or more manufactured homes for dwelling purposes.

*Manufactured home space/Lot* shall mean a parcel of land occupied or intended to be occupied by only 1 manufactured home for the exclusive use of the occupants of said manufactured home. Manufactured home space shall also mean a parcel of land in a manufactured home park described above, provided with the necessary utility connections, patio, and other appurtenances necessary for the erection thereon of only 1 manufactured home, and for the exclusive use of the occupants of said-manufactured home. This definition shall also apply to mobile home spaces.

*Miscellaneous equipment rental and leasing (7359)* shall mean being acceptable for the following: Electronic equipment rental and leasing, furniture rental and leasing; party supplies rental and leasing; musical instruments rental and leasing, rental and leasing of dishes, silverware and tables; television rental and leasing; hand tool rental and leasing; video recorder and player rental and leasing.

*Mobile home* shall mean a movable or portable dwelling over thirty-two (32) feet in length and over eight (8) feet wide, constructed to be transported on its own chassis and designed without a permanent foundation, whether or not a permanent foundation is subsequently provided, which may include one (1) or more components that can be retracted for transporting purposes and subsequently expended for additional capacity, or two (2) or more units separately transportable but designed to be joined into one (1) integral unit, as well as a portable dwelling composed of a single unit.

*Mobile home lot* shall mean a plot of ground within a mobile home park designed for the accommodation of one (1) mobile home.

*Mobile home park* shall mean any premises used or intended to be used or occupied by two (2) or more mobile homes, anchored in place or supported by a foundation or other stationary supports, together with automobile parking space, utility structures, and other required facilities incidental thereon. This definition shall not include mobile home sales lots on which unoccupied mobile homes are parked for purposes of inspection or sale.

*Motel (7011)* shall mean a building intended or designed to be used as tourist lodgings which are rented to short term transients where a general kitchen and dining room are not required. (See tourist lodgings)

*Multi-phased development* shall mean a development containing 25 acres or more that is both submitted for development permit approval to occur in more than one phase and is subject to a master development plan with committed elements showing the type and intensity of use of each phase.

*Municipality* shall mean the Town of Kure Beach.

*Nonconformity, dimensional* shall mean a nonconforming situation that occurs when the height, size, or minimum floor space of a structure or the relationship between an existing building or buildings and other buildings or lot lines does not conform to the regulations applicable to the district in which the property is located.

*Nonconforming lot* shall mean a lot existing at the effective date of this ordinance from which this section was derived or any amendment to it and not created for the purpose of evading the restrictions of this chapter that cannot meet the minimum area or lot width requirements of the district in which the lot is located.

*Nonconforming project* shall mean any structure, development, or undertaking that is incomplete at the effective date of this ordinance from which this section was derived and would be inconsistent with any regulation applicable to the district in which it is located if completed as proposed or planned.

*Nonconforming situation* shall mean a situation that occurs when, on the effective date of this ordinance from which this section was derived or any amendment to it, an existing lot or structure or use of an existing lot or structure does not conform to one (1) or more of the regulations applicable to the district in which the lot or structure is located. Among other possibilities, a nonconforming situation may arise because a lot does not meet minimum acreage requirements, because structures do not satisfy maximum height or minimum floor-space limitations, because the relationship between existing buildings and the land in such matters as density and setback requirements is not in conformity with this chapter, or because land or buildings are used for purposes made unlawful by this chapter.

*Nonconforming use* shall mean a nonconforming situation that occurs when property is used for a purpose or in a manner made unlawful by the use regulations applicable to the district in which the property is located. For example, a commercial office building in a residential district may be a nonconforming use. The term also refers to the activity that constitutes the use made of the property. For example, all the activity associated with running a bakery in a residentially zoned area is a nonconforming use.

*Obstruction* shall mean any material body that impedes the natural flow of air, water, moving objects, vision and/or frequencies.

*Off-street loading* shall mean loading space located on the same lot as the principal use, shall mean parking spaces located on the same lot as the principal use. (See parking-remote)

*On-street loading* shall mean loading space located on public property near or adjacent to principal business. On-street parking shall mean parking spaces located on public streets.

*Open porch* shall mean a porch open except for wire screening. A porch shall not be considered open if enclosed by either a permanent or detachable glass sash.

*Ordinance* shall mean these zoning regulations, including any amendments thereto. Whenever the effective date of the ordinance is referred to, the reference includes the effective date of any amendment to it.

*Parking-remote* shall mean parking space provided on any land within one thousand (1,000) feet of the main entrance to a principal use.

*Parking Area shall mean* an area covered by concrete, gravel, wood, slate, pavers, turf blocks, concrete runners, etc. but not natural ground covering materials and used for required off street parking.

*Parking area, gross shall mean* the total area provided for the off-street parking of automobiles, including parking stalls and the necessary driveway access space thereto. Walkways, planting strips, and other landscaped areas shall not be counted as gross parking space.

*Parking, combination space shall mean* a lot used for parking that is shared by at least two (2) parties.

*Parking space shall mean* the off-street and on-street space available for the parking of motor vehicles.

*Pergola* ~~A shall mean a~~ structure consisting of parallel colonnades supporting an open roof of girders and cross rafters.

*Planning and ~~zoning commission~~ Zoning Commission* see KBC 12.04.010.

*Porch* ~~A shall mean a~~ covered area adjoining an entrance to a building and usually having a separate roof.

*Portable sign shall mean any sign which is not securely and permanently attached to the ground or a building.*

*Principal use shall mean* the primary purpose of function that a parcel serves or is intended to serve.

*Professional shall mean* a person with four (4) years of college or four (4) years in an institute of higher learning with a degree in a field related to the profession. (For example, a doctor, lawyer, architect, etc.)

*Professional, general shall mean* any occupation, which is not of a professional nature.

*Projecting sign shall mean an outdoor sign which is affixed to any building wall or structure and extends beyond the building wall, structure, building line or property line.*

*Public buildings shall mean* any building or structure meant to benefit the public and from which the town derives a franchise tax or other form of annual revenue other than property tax or privilege tax. (KBC 15.08.070)

*Public notice shall mean* notification to the public according to the general statutes as specified for public bodies and types of meetings or hearings.

*Recreation shall mean* any form of play, amusement, or relaxation.

*Recreation, commercial shall mean* any form of play, amusement, or relaxation used for monetary gain.

*Recreation, commercial indoor shall mean* any form of play, amusement or relaxation used for monetary gain conducted within an enclosed structure.

*Recreation, commercial outdoor (7999) shall mean* any form of play, amusement or relaxation used for monetary gain not conducted within an enclosed structure.

*Religious institution* means shall mean a church, mosque, synagogue, temple or other place of religious worship.

*Religious annex* means shall mean a building associated with a religious facility that is maintained and used by a religious organization in accordance with its doctrines, practices, or regulations. A religious annex and its use shall not be considered nor construed to constitute an accessory building and use.

*Residence* shall mean a dwelling that is used for long term occupancy (i.e., single family homes, two (2) family homes, multifamily units, townhouses and condominiums) as distinguished from tourist lodgings.

*Retail, apparel and accessory stores (5611)* shall mean stores primarily engaged in selling new clothing, shoes, hats, underwear, and related articles for personal wear and adornment. Furriers and custom tailors carrying stocks of materials are included. All industry group numbers in this major retail group are acceptable as retail stores for the purpose of these zoning regulations.

*Retail, building materials, hardware and garden supply (5231 and 5251)* shall mean establishments primarily engaged in selling lumber and other building materials; paint, glass, and wallpaper; hardware; lawn and garden supplies. Only industry group no.'s 5231 and 5251 are acceptable as retail stores for the purposes of these zoning regulations.

*Retail, eating (5812) and drinking places (5813)* shall mean establishments selling prepared foods and drinks for consumption on the premises, and lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption.

*Retail, food stores* shall mean stores primarily engaged in selling food for home preparation and consumption. Only industry group no.'s (5411, 5441, 5451, and 5461) are acceptable as retail food stores for the purposes of these zoning regulations.

*Retail, general (5331)* shall mean establishments engaged in selling of retail merchandise to the general public for personal or household consumption, and rendering services incidental to the sale of the goods.

*Retail, general merchandise stores* shall mean stores, selling merchandise such as dry goods, apparel and accessories, furniture and home furnishings, small wares, hardware, and food. Only industry group no. 5399 is acceptable as retail stores for the purposes of these zoning regulations.

*Retail, home furniture, furnishings, and equipment stores (5712, 5722. and 5731)* shall mean stores selling goods used for furnishing the home, such as furniture, floor coverings, draperies, glass and chinaware, domestic stoves, refrigerators, and other household electrical and gas appliances. Only industry group no.'s (5712, 5722. and 5731) are acceptable as retail stores for the purposes of these zoning regulations.

*Retail, miscellaneous* shall mean retail stores not found in other major groupings (drug and proprietary stores; liquor stores; used merchandise stores; sporting goods stores; book stores; stationery stores; jewelry stores; hobby, toy and game shops; camera and photographic supply stores; gift, novelty and souvenir shops; luggage and leather goods store, sewing, needlework, and piece goods stores; florists; tobacco stores; optical goods store). Industry numbers which are acceptable as retail stores for the purposes of these zoning regulations **zoning regulations**

~~regulations~~ are (5912, 5921, 5932, 5941, 5942, 5943, 5944, 5945, 5946, 5947, 5948, 5949, 5961, 5992, 5993, and 5995.)

*Roof sign* shall mean an outdoor sign erected, constructed, or attached above or to the roof of any building.

*Roominghouse* (7021) shall mean a tourist lodging that rents single rooms and which may have a common kitchen, living room and bath. (See tourist lodgings)

*Setback* shall mean the distance between the minimum building line and the street right-of-way line required to obtain the front, side, or rear yard open space provisions of this Chapter to provide for runoff control, health, safety, firefighting, free flow of air and adequate off-street parking. In the event there is not a street right-of-way involved, then the property line shall be used in establishing the setback.

*Service station* (5541) shall mean an establishment used for the servicing of automobiles, including the sale of gasoline, oil, grease, and minor accessories and washing and polishing, but excluding the sale of automobiles, body repairing and painting.

*Shingle/Suspended sign* shall mean a projected and suspended sign attached to a building. Projection shall not extend into any public space.

~~Sign shall mean any words, lettering, numerals, parts of letters, or numerals, figures, phrases, sentences, emblems, devices, trade names or trademarks by which anything is made known, including any surface, fabric or other material or structure designed to carry such devices, such as are used to designate or attracts attention to an individual, a firm, an association, a corporation, a profession, a business, or a commodity or product, which are exposed to public view, and used to attract attention. This definition shall not include the flag, badge, or insignia of any governmental unit.~~

~~Sign shall mean any outdoor device or display consisting of letters, numbers, symbols, pictures, illustrations, announcements, cutouts, insignia, trademarks, or demonstrations designed to advertise, inform, identify or to attract the attention of persons. A sign shall be construed to be a display or device containing elements organized, related, and composed to form a single unit. In the event material is displayed in a random or unconnected fashion without organized relationship of the components, each component or element shall be considered a single sign.~~

*Site specific development plan* shall mean a plan submitted to the Town describing with reasonable certainty the type and intensity of use for a specific parcel or parcels and including: the approximate boundaries of the site; significant topographical and other natural features effecting development on the site; the approximate location of proposed buildings, structures, and other improvements on the site; the approximate dimensions, including height, of the proposed buildings and other structures; and the approximate location of all existing and proposed infrastructure on the site, including water, sewer, roads, and pedestrian walkways. For purposes of this Chapter, approved site specific development plans which would establish a vested zoning right prior to the issuance of a building permit include subdivision plats and special use permits. A variance, in and of itself, or a sketch plan that fails to describe with reasonable certainty the type and intensity of use, shall not constitute a site specific development plan.~~*Spire. A steeply pointed roof termination to a tower.*~~

*Spire* shall mean a steeply pointed roof termination to a tower.

*Stable, private* shall mean a stable with capacity for not more than two (2) horses, provided, however, that a private stable may exceed a two-horse capacity if the premises whereon such stable is situated contains an area of not less than two thousand (2,000) square feet for each horse accommodated, provided, however, this chapter shall not be construed to repeal, alter, or amend any ordinance of the town relating to the maintenance of animals or livestock within the corporate limits.

*Stand, shall mean* (as it relates to allowable business uses for the purpose of these zoning regulations) ~~, shall mean~~ the same as building with all the building code regulations and setbacks applied to said stand. (It will be a stand in name only.)

*Story* shall mean that part of a building comprised between a floor and the floor or roof next above.

*Story, half* shall mean a story under a gable, hip or gambrel roof, the wall plates of which on at least two (2) opposite exterior walls are not more than two (2) feet above the floor of such story.

*Street* shall mean a public road, which affords the principal means of access to abutting property including avenue, place, way, drive, land, boulevard, highway, road, and any other thoroughfare except an alley.

*Street line* shall mean ~~the street line is~~ the dividing line between the street and the lot, as established by the town.

*Structures* shall mean anything constructed or erected, the use of which requires location on the land including freestanding billboards, signs and fences. The term structure shall be construed as if followed by the words, or part thereof.

*Temporary sign shall mean a sign to be used on an interim basis.*

*Tourist lodgings (7011)* shall mean a building containing rooms designed to be used for the most part as sleeping accommodations for tourist/vacationers or short term transients (i.e., hotel, motel, boardinghouse, roominghouse ~~and bed breakfast~~) as distinguished from a residential dwelling. No more than five (5) percent of the individual units shall be occupied for more than ninety (90) continuous days by the same occupant. The individual unit will be no larger than four hundred twenty-five (425) square feet in size (exclusive of bathroom, closet and balcony areas). Any unit exceeding four hundred twenty-five (425) square feet in size will meet the dimensional and parking requirements of residential units KBC 15.36.120 and KBC 15.36.220. A tourist lodging will have one (1) water meter and one (1) electric meter. Individual metering is prohibited.

*Town buildings and facilities* shall mean those buildings and facilities that are owned and operated by the ~~town-~~ town. (KBC 15.08.060)

*Town ~~council~~ Council* shall mean the Mayor and members of the Town's governing body.

*Townhouse* shall mean an individually owned single family dwelling unit constructed in a series or group of attached units with lot line wall or property lines separating such units.

*Trailer* shall mean any vehicle, house car, camp car, or any portable or movable vehicle on wheels, skids, roller, or blocks either self-propelled or propelled by any other means, which is



used or designed to be used for residential, living, sleeping, commercial or utility purposes, but not including mobile vehicles primarily designed for the transportation of goods.

*Travel park (7033)* shall mean an area intended and equipped for the temporary parking of vehicles and tents designed for travel, recreational and vacation dwellings.

*Travel trailer* shall mean any vehicle or structure designed to be transported and intended for human occupancy as a dwelling for short periods of time, and containing limited or no kitchen or bathroom facilities. Travel trailers shall include the following:

- A. House trailer which shall mean a vehicular, portable structure built on a wheel designed to be towed by a self-propelled vehicle for use as a temporary dwelling for travel, recreational and vacation uses, having a body length not exceeding thirty-two (32) feet when equipped for road travel.
- B. Pick-up coach which shall mean a portable structure for use as a temporary dwelling for travel, recreational and vacation uses, designed to be mounted on a truck chassis for transportation, and to be used for a temporary dwelling while either mounted or dismounted.
- C. Motor home which shall mean a portable, temporary dwelling to be used for travel, recreational and vacation uses, constructed as an integral part of a self-propelled vehicle.
- D. Camping trailer which shall mean a folding structure manufactured of metal, wood, canvas and/or other materials, mounted on wheels and designed for travel, recreational and vacation~~al~~ uses.
- E. Self-contained travel trailer which shall mean a travel trailer which can operate independent of connections to sewer, water and electrical systems. It contains a water-flushed toilet, lavatory, shower and kitchen, all of which are connected water storage and sewage holding tanks located within the unit.
- F. Dependent trailer which shall mean a travel trailer which does not have a flush toilet, a lavatory, bath or shower.

*Use* shall mean the purpose for which land or a building is arranged, designed or intended, or for which land or a building is or may be occupied.

*Variance* shall mean a modification of the literal provisions of the zoning regulations granted when strict enforcement of the zoning ordinance would cause undue hardship owing to circumstances unique to the individual property on which a variance is granted.

*Vested right* shall mean the right to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan.

*Wall sign* shall mean an outdoor sign that is affixed to or painted on the wall of any building, providing it does not project more than twelve (12) inches from the building.

*Warehouse* shall mean a building where wares, or goods, are stored, as before distribution to retailers, or are kept in reserve, in bond, etc.

Way shall mean a street, alley, or other thoroughfare or easement permanently established for passage of persons or vehicle.

~~Widow's walk~~—**A shall mean a** railed observation platform usually atop a coastal house.

Yard shall mean an open space on the same lot with a building (primary and accessory), unoccupied and unobstructed from the ground upward except by trees, shrubbery, screen walls, fences, ground level decks and walkways, or as otherwise provided for or required under this chapter.

Yard, front shall mean a yard across the full width of the lot, extending from the front line of the nearest building on the lot to the front line of the lot.

Yard, rear shall mean a yard across the full width of the lot, as measured from the furthest rear point of the principal building to the rear line of the lot.

Yard, side shall mean a yard across the full width of the lot, extending from the side line of the principal building on the lot to the side line of the lot.

(Ord. of 11-20-07; Ord. of 4-15-08; Ord. of 3-17-09; Ords. of 5-17-16; Ord. of 2-20-18; Ord. of 12-18-18)

**Cross reference(s)**—Definitions and rules of construction generally, KBC 1.04.010.

#### HISTORY

Amended by Ord. 15.02.010 on 3/12/2020

Amended by Ord. Disability Ramps on 7/20/2020

Amended by Ord. Chapter 15 160D on 6/23/2021

Amended by Ord. Chapter 11 and 15 on 1/18/2023

#### **15.02.030 Short Title**

This chapter shall be known as the "Zoning Ordinance of the Town of Kure ~~Beach,~~ **Beach,**" and the map herein adopted by reference which is on file in the Town Clerk's office is identified by the title, "Zoning Map of the Town of Kure ~~Beach,~~ **Beach,**" and shall be known as the "Zoning Map."

#### HISTORY

Amended by Ord. Chapter 15 160D on 6/23/2021

#### **15.02.040 Purpose And Authority**

- A. The zoning regulations and districts as herein set forth have been made in accordance with the Town's comprehensive plan for the purpose of promoting the health, safety, morals, and the general welfare of the community. They are designed to lessen congestion in the streets, to secure safety from fire, panic and other dangers to provide adequate light and air, to prevent the overcrowding of land, to avoid undue concentration of population, to facilitate the adequate provisions of transportation, water, sewerage, and other public requirements. They have been made with reasonable consideration, among other things, as to the character of each district and its peculiar suitability for particular uses, and with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the community.

- B. The provisions of this chapter are adopted under authority ~~granted~~ ~~delegated~~ by the ~~North Carolina~~ General Assembly ~~of the State of North Carolina as provided for in~~ pursuant to Article 7 of Chapter 160D ~~of the North Carolina General Statutes. Statutes General part 3.~~

#### HISTORY

*Amended by Ord. Chapter 15 160D on 6/23/2021*

#### **15.02.050 Interpretation Purpose And Conflict**

The provisions of this chapter shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, prosperity, and general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants, or other agreements between parties. Where this chapter imposed a greater restriction upon the use of property or premises or upon the height of buildings, or request larger open spaces than are imposed or required by other ordinances, development regulations, rules, regulations or by easements, covenants, or agreements, the provisions of this chapter shall govern, provided nothing in the chapter shall be construed to amend or repeal any Town ordinance relating to maintaining or keeping of horses or livestock or other animals within the ~~Town's and~~ ~~Town's and~~ development regulation jurisdiction.

#### HISTORY

*Amended by Ord. Chapter 15 160D on 6/23/2021*

#### **15.02.060 Effects On Rights And Liabilities Under Existing Zoning Ordinance**

This chapter in part carries forward by reenactment certain provisions of the zoning regulations enacted by the Town in prior years. It is not the intention to repeal but rather to reenact and continue in force without interruption such existing provisions, so that all rights and liabilities which have occurred there under are preserved and enforceable. The enactment of this amendment shall not ~~effect~~ ~~affect~~ any action, suit, or proceeding instituted or pending ~~—~~ .

#### HISTORY

*Amended by Ord. Chapter 15 160D on 6/23/2021*

#### **15.08 DISTRICT REGULATIONS**

15.08.010 Districts

15.08.020 District Boundaries

15.08.030 Zoning Effect On Building And Land And Uses

15.08.040 District Regulations

15.08.050 Uses Which Are Prohibited

15.08.060 Town Buildings And Facilities

15.08.070 Public Utilities And Facilities

15.08.076075 Reserved

15.08.075076 Reserved

15.08.080 Quasi-Judicial Decisions

15.08.090 Site Plan Requirements

15.08.100 Overlay Districts

15.08.110 K Avenue Mixed-Use Overlay District

15.08.120 Downtown Preservation Overlay District

**State law reference(s)**—Districts, G.S. § 160A-382; method of procedure, G S § 160A-384.

### **15.08.060 Town Buildings And Facilities**

Town buildings and facilities shall be permitted in all zoning districts and shall not be considered to be nonconforming to the area in which they are located. These include, but are not limited to, the town hall, town fire station, town garage, various lift stations, well sites, and water storage tanks. Town fire and emergency buildings and facilities shall not be subject to setback requirements.

(Ord. of 10-16-17)

#### **HISTORY**

*Amended by Ord. [Chapter 15 160D](#) on 6/23/2021*

### **15.08.075 Reserved**

#### **HISTORY**

*Adopted by Ord. [15.08.075](#) on 3/12/2020*

*Amended by Ord. [Chapter 15 160D](#) on 6/23/2021*

### **15.08.076 Reserved**

#### **HISTORY**

*Adopted by Ord. [15.08.076](#) on 3/12/2020*

*Repealed & Reenacted by Ord. [Chapter 15 160D](#) on 6/23/2021*

### **15.08.075 Reserved**

#### **HISTORY**

*Adopted by Ord. [15.08.075](#) on 3/12/2020*

*Amended by Ord. [Chapter 15 160D](#) on 6/23/2021*

### **15.08.080 Quasi-Judicial Decisions**

A. Appeals. – Except as otherwise provided by the Town Code, the Board of Adjustment shall hear and decide appeals from administrative decisions made under the Town’s development regulations including its zoning regulations. The provisions of KBC 12.06.040 and KBC 12.06.050 are applicable to these appeals.

B. Special Use Permits.

1. Special uses which may be allowed in certain zoning districts with appropriate conditions and safeguards are identified in the district regulations with an “S.”
2. Town Council shall hear and decide special use permits in accordance with the provisions of KBC 12.06.050 and may impose reasonable and appropriate conditions and safeguards when granting these permits. Where appropriate, such conditions may include requirements that street and utility rights-of-way be dedicated to the public and that provision be made for recreational space and facilities. Conditions and safeguards imposed under this subsection shall not include requirements for which the Town is not authorized under statute to regulate nor requirements which courts have held to be unenforceable if imposed directly by the Town including, without limitation, taxes, impact fees, building design elements within the scope of G.S. 160D-702(b), driveway-related

improvements in excess of those allowed in G.S. 136-18(29) and G.S. 160A-307, or other unauthorized limitations on the development or use of land.

3. ~~3.~~ The regulations may provide that defined minor modifications to special use permits which do not involve a change in uses permitted or the density of overall development permitted may be reviewed and approved administratively. Any other modification or revocation of a special use permit shall follow the same process for approval as is applicable to the approval of a special use permit. If multiple parcels of land are subject to a special use permit, the owners of individual parcels may apply for permit modification so long as the modification would not result in other properties failing to meet the terms of the special use permit or regulations. Any modifications approved apply only to those properties whose owners apply for the modification.
4. ~~4.~~ Procedures:
  - a) Applications for a special use permit shall only be submitted by the landowner or the landowner's duly authorized agent.
  - b) Town Council shall hear and decide applications for a special use permit following review and comment of the application by the Planning and Zoning Commission. Council is not bound by the recommendations of the Planning and Zoning Commission.
  - c) The provisions of KBC 12.06.050 are applicable to Town Council's hearing and deciding applications for special use permits.
  - d) In granting a special use permit, Town Council shall find, on the basis of competent, material, and substantial evidence, that the proposed special use:
    - 1) Will not materially endanger the public health, safety, or welfare if located where proposed.
    - 2) Meets all required conditions and specifications under the Town Code.
    - 3) Will not substantially injure the value of adjoining property (or alternatively, is a public necessity).
    - 4) If developed and used as proposed, will be harmonious and compatible with the area in which it is proposed to be located and is generally consistent with the Town's comprehensive plan.

- e) Special use permits shall become null and void after 2 years unless the approved use has commenced and/or a foundation inspection has been approved.
- f) The Planning and Zoning Commission is authorized to approve minor modifications in the plans for an approved special use provided any such changes comply with sub-sub-subsections (1) through( 4) immediately above and the conditions imposed by Council on the special use permit, if any, have been met. For the purposes of this sub-subsection, the following shall not be construed as or deemed to be “minor modifications:”
  - 1) Changes in the character of the development.
  - 2) Any increase in intensity of the special use such as in its square footage, number of dwelling units, or site coverage.
  - 3) Significant changes to traffic circulation and access to streets and roadways.
  - 4) Any reduction in approved setbacks.

Other modifications to an approved special use permit shall be heard and decided by Town Council as a new application.

- C. Certificates of Appropriateness. – The Historic Preservation Commission shall hear and decide applications for certificates of appropriateness and appeals from administrative decisions on minor work within the Downtown Preservation Overlay District as set forth in KBC 15.08.120. The provisions of KBC 12.06.050 are applicable to these hearings.
- D. Variances. – When unnecessary hardships would result from carrying out the strict letter of a zoning regulation, the Board of Adjustment shall vary any of the provisions of the zoning regulations upon a showing of all the following:
  - 1. Unnecessary hardship would result from the strict application of the regulation. It is not necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
  - 2. The hardship results from conditions which are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or to the general public, may not be the basis for granting a variance. A variance may be granted when necessary and appropriate to make a reasonable accommodation under the Federal Fair Housing Act for a person with a disability.

3. The hardship did not result from actions taken by the applicant or the property owner provided that, however, the act of purchasing property with knowledge that circumstances exist which may justify the granting of a variance is not a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the zoning regulation, such that public safety is secured and substantial justice is achieved. No change in permitted uses may be authorized by variance. Appropriate conditions may be imposed on any variance, provided that the conditions are reasonably related to the variance. The provisions of KBC 12.06.050 are applicable in hearing and deciding requests for a variance.

## HISTORY

*Amended by Ord. 15.08.080 on 3/12/2020*

*Amended by Ord. Chapter 15 160D on 6/23/2021*

### **15.08.090 Site Plan Requirements**

Site plans shall be prepared by qualified professionals based upon current land records information. The plan shall be drawn to an accurate scale and legible sizes as required by each parcel and shall contain the following information:

- A. Names of the owner, developer and design professionals;
- B. Scale, dimensions, date, north arrow, property boundaries;
- C. Location, height, number of stories, floor area, setbacks and proposed uses of all structures;
- D. Open space and recreational areas and impervious surface calculations;
- E. Buffering and screening areas, fencing, walls and landscaping indicating the type, number and size of all plantings;
- F. Vehicular and pedestrian circulation including existing and proposed rights-of-way with cross-sections, design details and dimensions;
- G. Location and geometry of all parking, loading, and sanitation pickup;
- H. Conceptual grading, site preparation and stormwater management plans;
- I. Lighting details including type, location, and radius and intensity in ~~footcandles~~; **foot-candles**;
- J. Location, height and dimensions of all signs; and
- K. Any additional conditions and requirements that represent greater restrictions on development and use of the site than the underlying zoning district.

(Ord. of 3-18-08(1))

## HISTORY

Amended by Ord. Chapter 15 160D on 6/23/2021

### **15.10.020 Permitted Uses**

The following are the permitted uses **and special uses (S)** in the RA-1 residential district:

- A. One-family dwellings;
- B. Religious institutions including parish houses, Sunday schools and religious annexes. A religious annex may be used for housing, on a temporary basis, only visiting groups from other religious institutions (hereinafter "visiting religious groups") and emergency relief workers providing services in conjunction with declared states of emergencies. A religious annex shall not be used for private benefit/inurement, lobbying, political campaign activity, or to generate unrelated business income. A religious institution shall not charge a fee for any temporary housing provided hereunder although it may receive donations to offset the cost of providing such housing. For the purposes of this subparagraph, the temporary housing of a visiting religious group shall not exceed fourteen (14) days and the housing of emergency relief workers shall not exceed thirty (30) days;
- C. Colleges, schools, public libraries, public museums, art galleries, and other public buildings (8221, 8211, 8231, 8412); (S)
- D. Accessory buildings to permitted uses, provided that no accessory building shall be rented or occupied. Provided, further, that accessory buildings shall be constructed at time or following construction of the main building;
- E. Home occupations as defined in KBC 15.02.010.

(Ord. of 4-19-11, § 4; Ord. of 12-18-18)

### **15.14.020 Permitted Uses**

The following are the permitted uses **and special uses (S)** in the RA-2 district:

- A. One- and two-family dwellings;
- B. Offices of resident members of recognized professions, such as doctors, dentists, engineers, lawyers, architects, where such professions are carried on in their respective residences (80-11, 21, 31, 41, 42, 43, 49; 8711, 12, 21; 8111);
- C. Customary home occupations, such as dressmaking, music teaching, preserving, home cooking and laundering, but not including beauty parlors, provided that such occupation shall be engaged in only by residents on the premises, and not more than the equivalent of the area of one (1) floor shall be used for such occupations, that no display of products nor any advertising of any nature shall be visible from the street and that no accessory building shall be used for such home occupations;



- D. Religious institutions including parish houses, Sunday schools and religious annexes. A religious annex may be used for housing, on a temporary basis, only visiting groups from other religious institutions (hereinafter "visiting religious groups") and emergency relief workers providing services in conjunction with declared states of emergencies. A religious annex shall not be used for private benefit/inurement, lobbying, political campaign activity, or to generate unrelated business income. A religious institution shall not charge a fee for any temporary housing provided hereunder although it may receive donations to offset the cost of providing such housing. For the purposes of this subparagraph, the temporary housing of a visiting religious group shall not exceed fourteen (14) days and the housing of emergency relief workers shall not exceed thirty (30) days;
- E. Colleges, schools, public libraries, public museums, art galleries, and other public buildings (8211, 8221, 8231, 8412); (S)
- F. Accessory buildings to permitted uses, provided that no accessory building shall be rented or occupied. Provided further, that accessory buildings shall be constructed at time or following construction of the main building. Noncommercial recreational facilities, such as, clubhouse, swimming pools, and tennis court.

(Ord. of 4-19-11, § 5; Ord. of 12-18-18)

**15.18.020 Permitted Uses**

The following are the permitted uses **and special uses (S)** in the RA-2T district:

- A. One- and two-family dwellings;
- B. Manufactured/mobile homes;
- C. Offices of resident members of recognized professions, dentists, engineers, lawyers, architects, where such professions are carried on in their respective residences (80-11, 21, 31, 41, 42, 43, 49; 8711, 12, 21; 8111);
- D. Customary home occupations, such as dressmaking, music teaching, preserving, home cooking and laundering, but not including beauty parlors, provided that such occupation shall be engaged in only by residents on the premises and not more than the equivalent of the area of one (1) floor shall be used for such occupation, that no products nor any advertising of any nature shall from the street and that no accessory building; used for such home occupation;
- E. Religious institutions including parish houses, Sunday schools and religious annexes. A religious annex may be used for housing, on a temporary basis, only visiting groups from other religious institutions (hereinafter "visiting religious groups") and emergency relief workers providing services in conjunction with declared states of emergencies. A religious annex shall not be used for private benefit/inurement, lobbying, political campaign activity, or to generate unrelated business income. A religious institution shall not charge a fee for any temporary housing provided hereunder although it may receive

donations to offset the cost of providing such housing. For the purposes of this subparagraph, the temporary housing of a visiting religious group shall not exceed fourteen (14) days and the housing of emergency relief workers shall not exceed thirty (30) days;

- F. Colleges, schools, public libraries, public museums, libraries, and other public buildings (8221, 8211, 8231, 8412); (S)
- G. Accessory buildings to permitted uses, provided that no accessory building shall be rented or occupied. Provided, further, that accessory buildings shall be constructed at time or following construction of the main building.

(Ord. of 4-19-11, § 7; Ord. of 12-18-18)

### **15.20.020 Permitted Uses**

The following are the permitted uses **and special uses (S)** in the RA-3 district:

- A. One-family dwellings, two-family dwellings, and multiple family dwellings;
- B. Boardinghouses, guest houses, tourist homes, apartment houses not involving the conduct of any business other than for the sole convenience of the guests thereof (7021); (S)
- C. Hotels and motels (7011);
- D. Hotels and motels with restaurants, provided they have a minimum of twenty (20) rental units and twenty (20) complete baths;
- E. Schools, institutions of an educational nature (8211); (S)
- F. Public buildings and facilities;
- G. Religious institutions including parish houses, Sunday schools and religious annexes. A religious annex may be used for housing, on a temporary basis, only visiting groups from other religious institutions (hereinafter "visiting religious groups") and emergency relief workers providing services in conjunction with declared states of emergencies. A religious annex shall not be used for private benefit/inurement, lobbying, political campaign activity, or to generate unrelated business income. A religious institution shall not charge a fee for any temporary housing provided hereunder although it may receive donations to offset the cost of providing such housing. For the purposes of this subparagraph, the temporary housing of a visiting religious group shall not exceed fourteen (14) days and the housing of emergency relief workers shall not exceed thirty (30) days;
- H. Public museums, art galleries, libraries, parks, playgrounds (8221, 8211, 8231, 8412, 7999); (S)
- I. Hospitals and clinics (8062); (S)

- J. Accessory buildings to permitted uses, provided that no accessory building shall be constructed at time or following construction of the main building;
- K. Home occupations as defined in KBC 15.02.010;
- L. Real estate (6531).

(Ord. of 4-19-11, § 8; Ord. of 12-18-18)

**15.28.020 Permitted Uses**

The following are the permitted uses **and special uses (S)** in the B-2 district:

- A. One-family, two-family, and multifamily dwellings;
- B. Motels and guest cottages (7011);
- C. Accessory uses clearly incidental to a permitted use and which will not create a nuisance or hazard;
- D. Retail businesses, including those where service to the public is rendered (5331, 5399, 5411, 5441, 5451, 5461, 5712, 5722, 5731);
- E. Parking lots (7521); (S)
- F. Store or shop for custom work or for the making of articles the major portion of which are to be sold at retail on the premises;
- G. Business providing the service of rental which will not create a public nuisance;
- H. Real estate offices (6531).

(Ord. of 4-19-11, § 10)

**15.30.020 Permitted Uses**

The following are the permitted uses **and special uses (S)** in the B-3 district:

- A. Single-family dwellings;
- B. Townhouses and condominiums;
- C. Hotels and motels with or without restaurants (7011); (S)
- D. Conference center, to be independent of and/or associated with hotel, motel; (S)
- E. Schools, institutions of an educational nature (8211); (S)

- F. Public buildings and facilities; (S)
- G. Religious institutions including parish houses, Sunday schools and religious annexes. A religious annex may be used for housing, on a temporary basis, only visiting groups from other religious institutions (hereinafter "visiting religious groups") and emergency relief workers providing services in conjunction with declared states of emergencies. A religious annex shall not be used for private benefit/inurement, lobbying, political campaign activity, or to generate unrelated business income. A religious institution shall not charge a fee for any temporary housing provided hereunder although it may receive donations to offset the cost of providing such housing. For the purposes of this subparagraph, the temporary housing of a visiting religious group shall not exceed fourteen (14) days and the housing of emergency relief workers shall not exceed thirty (30) days; (S)
- H. Museums, art galleries, libraries (8221, 8211, 8231, 8412); (S)
- I. Hospital and clinics (8062); (S)
- J. Banks, finance and loan companies (6021, 6022); (S)
- K. Colleges, business colleges, trade schools, dancing schools, and similar organizations without students in residence; (S)
- L. Food stores, personal service establishments such as barber and beauty shops and retail stores not otherwise listed (4451, 7231, 7241, 5611, 5651); (S)
- M. Offices for professional business activities (80-11, 21, 31, 41, 42, 43, 49; 8711, 12, 21; 8111); (S)
- N. Reserved;
- O. Accessory uses clearly incidental to a permitted use and which will not create a nuisance or hazard;
- P. Noncommercial recreational facilities, such as, clubhouse, swimming pool and tennis court.

(Ord. of 4-19-11, § 11; Ord. of 12-18-18)

**15.32.020 Permitted Uses**

The following are the permitted uses **and special uses (S)** in the RB-1 district:

- A. One- and two-family dwellings;
- B. Townhouses and condominiums;
- C. Place of hotels and motels (7011);

- D. Hotels and motels with restaurants and/or conference centers within hotels or motels, provided they have a minimum of twenty (20) rental units and twenty (20) complete baths;
- E. Hotels and motels in which business may be conducted for the convenience of the occupants, provided however, that there shall be no entrance to such place of business except from inside the building, i.e., barber and/or beauty shop, sundry, gift shop, lounge, snack bar, small apparel shop, etc.;
- F. Restaurants provided they have a minimum of one hundred fifty (150) seats; (S)
- G. Food stores with or without gas pumps, drug stores, barber and beauty shops (7231, 7241); (S)
- H. Accessory uses clearly incidental to a permitted use and which will not create a nuisance or hazard.

(Ord. of 4-19-11, § 12)

**15.34.020 Permitted Uses**

The following are permitted uses **and special uses (S)** in the B-4 district:

- A. Single-family dwellings;
- B. Laboratories to include, but not limited to, analytical, chemical, clinical, dental, medical, environmental, research and testing facilities together with sea water intake and discharge systems and structures to be supportive to such facilities as required and offices incidental to the use thereto; (S)
- C. Accessory uses clearly incidental to a permitted use and which will not create a nuisance or hazard;
- D. Noncommercial recreation facilities, such as club house, swimming pool and tennis court.

(Ord. of 4-19-11, § 14)

**15.36 SUPPLEMENTAL DISTRICT REGULATIONS**

15.36.010 Control Of Yards/Setbacks

15.36.020 Reserved

15.36.030 Prerequisite To Construction, Demolition, Remodeling And Impervious Surfaces, Etc

15.36.040 Relationship Of Building To Lot

15.36.050 Reserved

15.36.060 Corner Lots

15.36.070 Location Of Accessory Buildings On Residential Lots

15.36.080 Reserved

15.36.090 Reserved

15.36.100 Modification Of Required Yards

- [15.36.110 House Trailers, Trailers And Campers Regulated](#)
  - [15.36.120 Density Control Requirements For Residential Units](#)
  - [15.36.130 Building Not To Exceed Height Limit](#)
  - [15.36.140 Roof Pitch](#)
  - [15.36.150 Height Limit Exceptions](#)
  - [15.36.160 Height Exception Requirements](#)
  - [15.36.170 Off-Street Parking Requirements](#)
  - [15.36.180 Certificate Of Minimum Parking Requirements](#)
  - [15.36.190 Combination Of Required Parking Space](#)
  - [15.36.200 Requirements For Parking Lots In Residential Districts](#)
  - [15.36.210 Handicapped Parking Requirements](#)
  - [15.36.220 Minimum Parking Requirements](#)
  - [15.36.230 Off-Site Or Remote Parking Facilities](#)
  - [15.36.240 Solar Energy Equipment](#)
  - [15.36.250 Wind Energy Equipment](#)
- BETH --- You need to set this new heading up with its hyperlinks.

**15.36.030 Prerequisite To Construction, Demolition, Remodeling And Impervious Surfaces, Etc**

Except as otherwise provided for herein in ~~KBC 11.02.030 subparagraph B~~, no building, building repairs remodeling, installation, driveway, parking lot, or other structures, other ground-covering impervious surfaces, or demolition thereof shall be commenced within the town's jurisdictional limits until a permit has been obtained from the building inspector.

No permit shall be issued if the total square footage of the buildings, other structures, and impervious ground-covering surface will exceed sixty-five (65) percent of the lot; excepting therefrom, those structures located in the B-1 district and the established fire district of the town. Any type driveway or impervious surface across the town right-of-way shall be limited to 49% of lot width not inclusive of 18 inch flares on each side.

Impervious surface coverage in the side yard/setback area of residential lots shall be limited to fifteen (15) percent of the yard/setback.

Driveways located in the front yard/setback of residential lots shall be limited to 72% of lot width. Driveways and parking areas constructed of drip-through wooden, gravel, turf blocks, slate, pavers or other permeable materials are permissible but may not exceed coverage or widths allowed regardless of permeability.

(Ord. of 2-16-10; Ord. of 9-18-12; Ord. of 2-20-18)

**HISTORY**

*Amended by Ord. [Chapter 11 and 15](#) on 1/18/2023*

**15.36.160 Height Exception Requirements**

- A. The exceptions to the thirty-five-foot height limit of structures allowed by the state law applies to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys or other appurtenances usually required to be placed above the roof level and not intended for human occupancy; therefore, any person desiring to construct such an exception must

first apply for the permission to construct such exception before the ~~T~~technical ~~R~~review ~~C~~committee (TRC).

- B. The TRC shall ~~consist of the members of~~ be the ~~P~~lanning and ~~Z~~oning ~~Commission~~ committee of the Town ~~of Kure Beach~~ who shall review height exceptions provided that the applicant for same can show the exception is architecturally and economically necessary, consistent with the current zoning district regulations and consistent with the neighborhood in which the exception is located.
- C. It is required to resubmit application for approval if applicant changes approved plan or materials/product substitutions are made. Regular application fees apply.
- D. The following shall be guidelines for the TRC when considering exceptions in commercially zoned districts:
  - 1. Chimneys must meet state and local building codes and remain ventless where applicable.
  - 2. Electronic communication antennas must meet any provisions regulating such installations.
  - 3. Parapet firewalls must meet state and local building codes as determined by building use.
  - 4. Architectural details and screening may exceed the height limit by not more than seven (7) percent of the building height.
  - 5. Ventilation hoods, HVAC equipment and any mechanical appurtenance required for building operation shall be considered by the TRC Manufacturer's standards apply. Substitutions or changes will require a second review of the TRC.
  - 6. Elevator bulkheads and roof access stairways shall be considered by the TRC. Minimum manufacturer's height standards for maintenance access shall apply.
  - 7. No appurtenance shall be considered if the area allowed is used for human occupancy.
  - 8. Belfries are bell towers attached to commercial buildings and shall not exceed seven (7) percent of the building height. These items are for architectural aesthetics only (example: clock tower).
  - 9. Spires are steeply pointed terminations to a tower, a roof or a church steeple. Spires shall not exceed seven (7) percent of the building height.
  - 10. Cupolas are ornamental structures located on top of a larger roof used to admit light or provide ventilation. Cupolas may be constructed on commercial buildings.

They should not exceed one hundred fifty (150) square feet and shall not exceed seven (7) percent of the building height.

E. The following shall be guidelines for the TRC when considering exceptions in residentially zoned districts:

F.

1. Chimneys must meet state and local building codes and remain ventless where applicable.
2. Electronic communication antennas must meet any provisions regulating such installations.
3. Ventilators required for building operation shall be considered by the TRC. Manufacturer's standards apply. Substitutions or changes will require second review of the TRC.
4. No appurtenance shall be considered if the area allowed is used for human occupancy.
5. Belfries are bell towers attached to buildings and shall not exceed proposed building height. These items are for architectural aesthetics only and usually reserved for commercial use.
6. Spires are steeply pointed terminations to a tower or roof and are usually reserved for churches.
7. Cupolas are ornamental structures located on top of a larger roof used to admit light or provide ventilation. Cupolas may be constructed and should not exceed one hundred (100) square feet and (3) percent of the building height.
8. Any appurtenance not listed in the residential section of this ordinance shall not be considered by the TRC for approval.

G. Information required, fee, meetings, and appeal process are as follows:

#### **Application Information**

*Application fee:* Two hundred fifty dollars (\$250.00). ~~(increase is not necessary after comparing fees of other coastal communities).~~

*Application, plans and number of copies:* Provide two (2) completed applications with original signatures. Provide seven (7) copies of the completed application packet, for the TRC and staff, which include final site plans, final elevations, final drawings, surveys, support letters and other supporting documents. Acceptable plans are prepared by licensed design professionals.



*Public notice:* The town will prepare appropriate legal notices announcing the exception request and an announcement of the scheduled TRC meeting.

*Submittal of application:* Application packets must be submitted for review and approved as complete by the Building ~~Inspector~~ ~~Code Enforcement Officer~~, 117 Settlers Lane, Kure Beach, NC 28449, twenty (20) days prior to the first ~~Wednesday~~ ~~Tuesday~~ of the month.

*Meeting schedule:* Applicants will be notified of ~~the TRC meeting wherein the application will be considered and acted on-schedule. TRC meetings are usually held on the first Wednesday Tuesday of every month at 6:00 7:00 p.m.~~ The TRC ~~will~~ shall render its ~~decision on the application during the open session of the~~ ~~opinion on the issue at the~~ meeting in which they hear the ~~issue~~ application. ~~Hearing dates are subject to change pending holidays.~~

*Appeal process:* ~~Appeals of the TRC's decisions on height exception applications shall be made in writing, submitted to the Town Clerk within 30 days after the date of the meeting wherein TRC rendered it's decision, and shall be heard and decided upon by Town Council in open session at Council's next regular meeting after the date the appeal was submitted to the Town Clerk.~~ ~~are made to the Kure Beach Town Council.~~

*Applications for Height Exceptions may be modeled as follows:*

**Town of Kure Beach  
Height Exception Application  
Commercial and Residential Zoned Districts**

Submittal Date: \_\_\_\_\_

Commercial \_\_\_ Residential \_\_\_

~~Provide two (2) completed applications with original signatures. Provide seven (7) copies of the completed application packet, for the TRC and staff, which include site plans, elevations, drawings, surveys, support letters and other supporting documents. Accepted plans are prepared by licensed design professionals for commercial buildings.~~

~~Application packet must be submitted to the Building Code Enforcement Officer, 117 Settlers Lane, Kure Beach, NC 28449, twenty (20) days prior to the first Tuesday of the month.~~

~~Submittal Date: \_\_\_\_\_~~

~~Commercial \_\_\_ Residential \_\_\_~~

**Property Owner(s)**

Name:

Physical Address:

Phone Number:

**Applicant**

Name:

Mailing Address:

Phone Number:

Type of Exception Requested:

Signature of Applicant: \_\_\_\_\_

Signature of Property Owner: \_\_\_\_\_

**FOR OFFICIAL USE ONLY**

Accepted for Review

Date \_\_\_\_\_  
Building Inspector

Fee Paid \_\_\_\_\_

TRC Meeting Date \_\_\_\_\_

TRC Decision \_\_\_\_\_

Date Appeal Submitted \_\_\_\_\_

**General Information**

Project Name:

Project Location:

Property Identification Number (PIN):

Existing Zoning:

Existing Use of Property:

Proposed Use of Property:

Total Site Area (Square Footage or Acres):

Total Square Footage of Building:

Number of Buildings:

Number of Rooms:

Number of Seats (restaurants):

**A height exception is requested relative to KBC 15.36.150. Define the height exception.**

*All plans must be approved by the building code enforcement officer prior to issuance of building permit.*

#### **Justification Statement**

1. Explain how the height exception is architecturally and economically necessary to your building or building plan.
2. How is this height exception consistent with the Town's Zoning Ordinance?
3. How is this height exception consistent with the existing uses in the district?
4. Explain how the height exception will not constitute a grant of special privilege to an individual owner as contrasted with the public welfare?
5. Explain how sufficient evidence has been presented to justify the need for a height exception.

(Ord. of 10-21-08(2); Ord. of 6-16-09)

#### **15.36.190 Combination Of Required Parking Space**

The required parking space for any number of separate uses may be combined in one (1) lot but the required spaces assigned to one (1) use may not be assigned to another use, unless authorized by a special use permit issued in accordance with the following criteria:

- A. Up to fifty (50) percent of the parking spaces may be used jointly with other uses not normally open, used or operated during similar hours.

- B. The resulting number of required parking spaces and hourly parking demands shall be based upon well recognized sources of parking data such as the **Urban Land Institute (ULI)** and **(Institute of Transportation Engineers (ITE))**.
- C. A written agreement defining the joint use acceptable to the town council and approved by the landowners and developers must be provided.
- D. Other factors such as seasonal peaks in demand, the site's orientation, and location of access, pedestrian connections, and accessibility to other nearby parking should be considered.

(Ord. of 3-18-08(6))

**15.36.240 Solar Energy Equipment**

- A. *Purpose.* The purpose of this section is to provide standards for the use of solar energy equipment as accessory uses within the Town of Kure Beach. This section seeks to protect properties from incompatible uses and to conserve and enhance property values, while promoting the use of alternative energy sources, where appropriate. This section provides a process to facilitate the use of solar power in a manner that minimizes visual impacts of solar energy equipment and the potential for nuisance.
- B. *Definition.* "Solar energy equipment" is defined as a solar photovoltaic panel, solar hot air or hot water panel collector device, or other type of energy system which relies upon solar radiation as a source for the generation of electricity or transfer of stored heat which is located on the power beneficiary's premises; is designed and intended primarily to offset up to one hundred fifty (150) percent of the beneficiary's requirements for energy consumption on-site as documented through the submission of power company electricity usage bills or another form of documentation acceptable to the Town of Kure Beach Zoning Officer; and is secondary to the beneficiary's use of the premises for other lawful purposes. Systems that offset over one hundred fifty (150) percent of the beneficiary's requirements for energy consumption on-site are classified as commercial systems and are prohibited.
- C. *Accessory use.* Solar energy equipment shall be permitted as an accessory use in any zoning district upon receipt of a permit from the building inspector.
- D. *Exclusions from building permit requirement.*
  - 1. The installation of one (1) solar panel with total area of less than four (4) square feet.
  - 2. Repair and replacement of existing solar energy equipment, provided that there is no expansion of the size or coverage area of the solar energy equipment.
  - 3. Nonconforming solar energy equipment installed prior to the adoption of Ord. of 5-15-12 shall be excluded from permit requirement. Solar energy system equipment that replaces fifty (50) percent or more of existing solar energy system equipment installed prior to the adoption of Ord. of 5-15-12 needs to conform to Ord. of 5-15-12.

E. *Application for building permit.*

1. An applicant who seeks to install solar energy equipment shall submit an application for a zoning permit, as provided by the Town of Kure Beach. The application shall include photographs of the existing conditions of the property as well as renderings of the proposed solar energy equipment from front street level.
2. Review of application: Upon receipt of a completed application for the installation of solar energy equipment, the building inspector shall have the authority to impose reasonable conditions to safeguard the public health, safety and welfare.

F. *Regulations and requirements.*

1. Solar energy equipment shall be located in the least visibly obtrusive location where panels would be functional;
2. Solar energy equipment must comply with all setback and height requirements for the zoning district in which the property is located.

G. *Roof-mounted systems.* All roof-mounted systems must have an engineer's letter outlining the suggested attachment. Roof-mounted systems refers to systems mounted on the primary residential or commercial mounted systems.

1. It is encouraged that roof-mounted solar energy equipment shall be installed in the plane of the roof (flush-mounted) or made a part of the roof design (capping or framing is compatible with the color of the roof or structure). Mounting brackets shall be permitted if the applicant can demonstrate that the existing pitch of the roof would render the solar energy equipment ineffective or would be impossible. A roof-mounted solar energy facility or structure that is to be mounted on a flat roof may be angled to achieve maximum sun exposure but shall not exceed five (5) feet above the roof.
2. Solar energy equipment shall be located on a rear- or side-facing roof, as seen from the fronting street, unless the applicant can demonstrate that such installation would be ineffective or is impossible.
3. Solar energy equipment shall not project vertically above twelve (12) inches below the peak of the roof to which it is attached, or project more than five (5) feet above a flat roof.
4. The solar energy equipment shall not be within twelve (12) inches from the eaves of the roof or within twelve (12) inches from the overhang of the roof.
5. All exterior electrical and/or plumbing lines must be painted in a color scheme that matches as closely as reasonably possible the color of the structure and the materials adjacent to the lines.
6. No roof-mounted solar energy equipment shall be installed on a nonconforming structure that would create more nonconformity.
7. An external disconnect switch shall be provided, and the owner must file a map with the fire and police departments clearly showing where the disconnect switch is located.

8. At no point shall any solar equipment exceed thirty-five (35) feet in height.
9. The Town of Kure Beach recognizes that there are continuous improvements in solar equipment technology. Nonreflective solar cells that are completely integrated into normal building material such as roof tiles may be exempt from subparagraphs G,3 and G,4. The building inspector will determine if the proposed system is sufficiently integrated into the building material to qualify for this exemption.

H. *Ground-mounted systems.*

1. The ground-mounting of solar energy equipment is not allowed with the following exceptions:
  1. Small, incidental systems used for solar lights and landscaping, not to exceed one (1) square foot per system.
  2. The total combined square footage for ground-mounted solar energy equipment cannot exceed four (4) square feet per property.
  3. Passive heating systems installed horizontally and directly over spas or pools.

~~I. *Wind systems. Wind systems are not permitted in any form, in any district.*~~

**15.36.250 Wind Energy Equipment**

A. ~~Wind systems are not permitted in any form in any district.~~

(Ord. of 5-15-12)

**15.38.020 Continuance Of Nonconforming Situation**

The lawful use of a structure, land, or use of structure and land existing at the time of the passage of this ordinance from which this section was derived may be continued although such does not conform with the provisions of this chapter provided they conform to the following provisions:

- A. *Minimum single lot requirements.* Where the owner of a lot, or his successor in title thereto does not own sufficient land to enable him to conform to the area requirements of this chapter, the lot may be used as a building site, provided that the minimum back, front, and side yard/setback requirements for the district in which the lot is located are met.
- B. *Extension in yard/setback space.* A structure that is nonconforming as to yard/setback requirements but conforms to the permissible use within the district in which it is located shall not be enlarged or extended in any direction (horizontally or vertically) into the required open space of the yard/setback area, except for energy conservation enclosures in subparagraph I below, and changes in roof design in subparagraph J below, and ramps, lifting devices and hand rails or a combination of these for the handicapped in subparagraph K below.
- C. *Change of use.* A nonconforming use shall be changed to only those uses that are permitted in this chapter for the district in which such nonconforming use is located.
- D. *Extension in use.* There shall be no extension in a nonconforming use that would increase the building's occupancy, square footage, production, servicing or utility demands except that any structure used for single-family residential purposes and maintained as a nonconforming use or structure may be enlarged or replaced with a similar structure of a larger size, so long as the

enlargement or replacement does not create new nonconformities or increase the extent of existing nonconformities with respect to yard/setback requirements which at a minimum should comply with the RA-1A residential requirements.

- E. *Repairs and alterations.* Normal maintenance, repairs, and improvements of nonconforming buildings shall be permitted provided that it does not violate subparagraphs B—D above.
- F. *Damage or destruction.* Any nonconforming structure or any building containing a nonconforming use which has been damaged, destroyed, demolished, or removed either by accident or by natural causes may be reconstructed and used as before if a building permit is applied for within one (1) year from the date of destruction, provided, it does not violate subparagraphs B—D above.
- G. *Cessation.* If active operation of a nonconforming use is discontinued for a period of twelve (12) consecutive months, such nonconforming use shall thereafter be used only for a conforming use. A cessation will also occur when a structure is willfully removed. Once a nonconforming situation has been changed to a conforming situation, it shall not revert back to a nonconforming situation.
- H. *Transfer of nonconforming property.* Nonconforming situations cannot be transferred with a lot if it is vacant at the time of transfer, except as noted in subparagraph A above.
- I. *Energy conservation.* A covered ~~entrance-way~~ entranceway already in existence within the setback area, which has a permanent foundation and floor and is covered by an existing roof, may be enclosed for energy conservation purposes. ~~The purposes-~~The inside dimensions of the enclosure shall be less than seventy (70) square feet in area.
- J. *Change of roof design.* A flat roof may be changed to a pitched roof provided that such roof shall not exceed a four (4) to twelve (12) ratio. The pitched roof shall not extend horizontally any further than existing nonconforming the situation, nor shall it exceed the current building height limitation. Gutters and downspouts shall be provided to control runoff when adjoining property would be affected as a result of this modification. Where gutters are required, they shall not encroach on the adjoining property.
- K. *Facilities for handicapped persons.* A ramp, lifting device and hand rails or a combination of these may be constructed in the setback area, provided that no other suitable conforming alternative exists, for the use of persons who are unable to enter or leave their place of dwelling without the assistance of other persons or a self-propelled method of travel. The facilities listed in this section may not encroach upon the adjoining property. Application for the facility will be made to the building inspector who will investigate and make recommendation to the planning and zoning commission. After their review, planning and zoning will make recommendations to Kure Beach Town Council. After council's review of the case, and upon approval, they will instruct the building inspector to issue a permit and monitor the construction.

(Ord. of 3-18-08(8); Ord. of 2-20-18)

#### **15.40.020 Definitions(Reserved)**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~*Billboard* shall mean an independent advertising device used to disseminate information concerning a person, place, activity or thing not pertaining to the use of the land upon which the advertising device is located.~~

~~*Canopy sign* shall mean a projecting sign attached to or hung from a marquee and such marquee shall be known to mean a canopy or covered structure projecting from and supported by a building, when such canopy or covered structure extends beyond the building line or property line.~~

~~*Extraterritorial jurisdiction* shall mean the area adjacent to the town where town land development regulations can be applied.~~

~~*Freestanding sign* shall mean an outdoor sign when such sign is supported by uprights or braces in or upon the ground. Ground sign does not mean billboard.~~

~~*Monument sign* shall mean a freestanding sign that is detached from a building and having a support structure that is a solid appearing base constructed of concrete block, brick, or wood. All other freestanding sign types not meeting the definition of a monument sign shall be either a pole sign or a pylon sign.~~

~~*Portable sign* shall mean any sign which is not securely and permanently attached to the ground or a building.~~

~~*Projecting sign* shall mean an outdoor sign which is affixed to any building wall or structure and extends beyond the building wall, structure, building line or property line.~~

~~*Roof sign* shall mean an outdoor sign erected, constructed, or attached above or to the roof of any building.~~

~~*Shingle sign* shall mean a projection or wall sign attached to a building.~~

~~*Sign* shall mean any outdoor device or display consisting of letters, numbers, symbols, pictures, illustrations, announcements, cutouts, insignia, trademarks, or demonstrations designed to advertise, inform, identify or to attract the attention of persons. A sign shall be construed to be a display or device containing elements organized, related, and composed to form a single unit. In the event material is displayed in a random or unconnected fashion without organized relationship of the components, each component or element shall be considered a single sign.~~

~~*Temporary sign* shall mean a sign to be used on an interim basis.~~

~~*Wall sign* shall mean an outdoor sign that is affixed to or painted on the wall of any building, providing it does not project more than twelve (12) inches from the building.~~

~~(Ord. of 3-15-11, # 1; Ord. of 12-18-18)~~

#### **15.40.040 Exceptions**

The signs listed below are excluded from these regulations:

- A. Signs not exceeding four (4) square feet in area and bearing only property numbers, post office box numbers, names of occupants of premises, or other identification of premises not having commercial connotations and are on owner's property.
- B. Flags, signs, and insignias of any governmental agency, except where displayed in connection with commercial promotion; items in this category are not to exceed thirty-two (32) square feet.



- C. Signs directing and guiding traffic, parking and safety signs on private property, but bearing no advertising matter. Items in this category are not to exceed six (6) square feet.
- D. Yard sale and for sale signs which are temporary. Items in this category are not to exceed six (6) square feet. All signs in this category must be set off street right-of-way in all zones except commercial. All signs in this category in the commercial district must be set back three (3) feet from the right-of-way. If three (3) feet is not available the sign must be behind the sidewalk or attached to the structure.
- E. Signs located on church property not exceeding thirty-two (32) square feet. A maximum of two (2) church signs directing persons to churches located within the town not exceeding four (4) square feet each.
- F. Current residential monument signs erected prior to 2008 are allowed. Monument signs must be approved and are subject to the subdivision approval process.
- G. Temporary signs may be erected on privately owned premises for a cumulative durational period of ninety (90) days within a single calendar year. Temporary signs will not be allowed in the right-of-way within the town limits or on any publicly owned property. Temporary signs in the extraterritorial jurisdiction shall be placed near the tree line from the edge of the road. Temporary signs may not be erected within fifty (50) feet of Town Hall or polling places twenty-four (24) hours prior to the scheduled election subject to limits imposed by the New Hanover County Board of Elections. Temporary signs may not exceed six (6) square feet in size.
- H. Historically significant signs. The Federal Point Historic Preservation Society, the committee charged with protecting historical districts, may nominate signs located in such districts as historically significant signs. The town council shall hold a public hearing and make final determination as to the historical significance of such nominated sign, and if such sign is found to be historically significant, then the prohibition herein shall not regulate such sign. However, such sign may only be maintained and shall not be enlarged, diminished or significantly changed, and in the event of such notification of change, it shall lose the protection as an historically significant sign.
- I. Freestanding or monument signs for existing homeowner associations of more than four (4) lots noting only entrances, and/or common areas designated for owners use i.e. pool, parking lot, tennis court, clubhouse, etc. Signs shall be limited to thirty-two (32) square feet and up to **eight (8) feet** ~~eight (8) feet~~ tall, shall be illuminated from the exterior only, and shall be constructed of the same material to have a similar look of the homes located within the HOA. No sign shall contain any changeable copy system. When using this exception, no more than two (2) signs per entrance and/or common areas are allowed. Permitting process of KBC 15.40.050 applies.

(Ord. of 6-16-09; Ord. of 10-20-09; Ord. of 3-15-11, # 3; Ord. of 4-21-16; Ord. of 10-22-18)

HISTORY

Amended by Ord. [15.06.040](#) on 6/15/2020

**15.40.060 Prohibited Signs**

Unless expressly permitted elsewhere in this chapter, the following commercial signs are prohibited:

- A. No commercial sign shall be erected within or encroach upon any public property or within any public right-of-way, or which obstructs the sight distance at intersections.

- B. Flashing, moving, pulsating or intermittently lighted signs, electronic reader boards, programmable signs, time and temperature signs, laser lighting and search lights.
- C. Signs which conflict with or imitate any traffic control device due to color, wording, design, location or illumination, or which interfere with the safe and efficient flow of vehicular and/or pedestrian traffic.
- D. Animals, or human beings, live or simulated, designed or used so as to attract attention to the premises.
- E. Loudspeakers or signs which emit sound, odor or visible matter.
- F. Signs with mechanical movement.
- G. Flags, kites, pennants, balloons, spinners, streamers, or other such advertising devices or displays, except seasonal holiday decorations and other temporary, noncommercial celebratory activities, such as birthday parties.
- H. Signs which constitute a nuisance or hazard due to their intensity of light.
- I. Signs which no longer identify a bona fide business conducted on the premises. Such signs shall be removed by the owner of the sign within sixty (60) days of the business' closing date.
- J. Vehicle signs, trailer signs, signs affixed to automobiles, trucks, trailers, or other vehicles parked on any property within the Town for the principal purpose of advertising or display. The following shall constitute a prima facie violation of this section:
  - 1. The advertising medium utilized on the vehicle is a sign, device, or structure separate from the vehicle.
  - 2. The copy is readily changeable, including but not limited to, repainting such sign, device or structure.
  - 3. The sign, device or structure exceeds nine (9) square feet in area and the vehicle is parked on the street or on the business premises to which the advertising relates or in reasonable proximity thereto and the location of the advertising is reasonably calculated to direct an observer toward the business. It shall be considered that advertising was the principal purpose of the parking of the vehicle, notwithstanding the fact that the vehicle is driven to and from the business premises on a daily basis. The vehicle is not parked in a manner to circumvent the standards of this chapter for the amount or type of signing permissible on a site by either parking on the site or on public rights-of-way immediately adjoining the site in such a manner as to call attention to the sign or vehicle.
- K. Exposed neon conduit or tubing, interior or exterior neon window signs, interior or exterior LED signs, or lighting displays inside or outside the building so as to be visible from streets, parking areas or site boundaries, unless approved as part of a planned sign program. An attractive and artistic exposed neon sign is allowed.
- L. Window signs, except as expressly permitted by this division, or as required by law, shall not exceed more than twenty-five (25) percent of the window area. The definition of window signs is any sign that is placed within four (4) feet of a window for the purposes of being able to view the sign from outside the business.

- M. Signs which have less horizontal or vertical clearance from authorized communication or energized electrical power lines than that prescribed by the laws of the State of North Carolina.
- N. Painted-on-the-wall signs, signs constructed on cloth, canvas, fabric, cardboard, wall board, or other light flimsy material with or without frames.
- O. Notices, placards, bills, posters, cards, stickers, banners, signs, advertisings, or other devices designed to attract the attention of the public that are posted or otherwise affixed upon any street, street furniture, right-of-way public sidewalk, crosswalk, curb, lamppost, hydrant, tree, alley, telephone pole, public telephone, vehicle, lighting system, or other public alarm or communication system.
- P. Obscene or offensive signs containing statements, words or pictures of an obscene or indecent character which appeals to a prurient interest in sex, or which are patently offensive.
- Q. Portable signs, except moveable commercial A-frame, or easel type signs may be permitted for businesses to advertise menus, sale items, or other business promotions. These signs shall be designed to complement the decor of the business or building where they occur and shall comply with the following standards: One (1) moveable, freestanding sign shall be permitted for each business; all signs shall be located on private property and must allow sufficient access to doors/pathways and not impede pedestrian movement; all signs must be removed when business is closed. The maximum allowable size of the sign and supporting structure shall not exceed forty-eight (48) inches in height, thirty (30) inches in width and thirty-six (36) inches in depth. The maximum sign area shall not exceed ten (10) square feet. Signs shall not contain illumination.
- R. Temporary "grand opening" signs are allowed no more than two (2) months.
- S. Signs affixed to trees or other natural vegetation or rocks.
- T. All roof signs and signs projecting above the roof-line.
- U. Except in a state of emergency, any permitted or nonconforming sign or sign structure which has been damaged may be repaired and used as before, provided all repairs are initiated within thirty (30) days and completed within ninety (90) days of such damage. ~~Internally illuminated can signs with translucent copy and field. Low luminance internally illuminated channel letter and halo signs (reverse channel letter signs are permitted). It is encouraged that all major business signs be externally illuminated. External illumination devices such as, but not limited to, flood or spot lights shall be so placed and so shielded as to prevent the rays of illumination from being cast upon neighboring buildings and/or vehicles approaching from either direction. No blinking illuminations shall be permitted.~~
- V. ~~Internally illuminated can signs with translucent copy and field, low luminance internally illuminated channel letter and halo signs (reverse channel letter signs are permitted). It is encouraged that all major business signs be externally illuminated. External illumination devices such as, but not limited to, flood or spot lights shall be so placed and so shielded as to prevent the rays of illumination from being cast upon neighboring buildings and/or vehicles approaching from either direction. No blinking illuminations shall be permitted.~~
- W. ~~Billboards are prohibited in any district.~~

(Ord. of 6-16-09)

**15.42 CIVIL PENALTY**

**15.42.010 Civil Penalty**

**15.42.010 Civil Penalty**

Wherever in KBC 15 any person or corporation shall violate any of KBC 15 provisions or ordinances, the code enforcement officer shall subject the offender after due notice thereof to a civil penalty in the amount of fifty dollars (\$50.00) by the issuance of a civil citation which must be paid within seventy-two (72) hours after receipt of same and each day of any such violation continues shall constitute a separate offense for which a civil citation may be issued.